

Before the
Administrative Hearing Commission
State of Missouri

CHARLES V. SCHNEIDER,)	
)	
Petitioner,)	
)	
vs.)	No. 13-0730 RI
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

Charles V. Schneider is liable for \$3,172.32 in Missouri income tax, \$793.08 in additions, plus interest at the statutory rate for tax year 2009.

Procedure

On May 3, 2013, Schneider filed a complaint challenging the final decision of the Director of Revenue (“the Director”). On May 29, 2013, the Director filed an answer.

On September 12, 2013, this Commission convened a hearing. Schneider appeared *pro se*. The Director was represented by Senior Counsel Jan Hemm Pritchard. This case became ready for our decision on January 28, 2014, when we granted Schneider leave to amend his reply brief.

Findings of Fact

1. At all times relevant to these findings, Schneider lived in Kansas City, Missouri.
2. During 2009, Schneider worked for ISS, Uniguard Security, Inc., and received payment from the company for his services. This payment totaled \$23,470.

3. The United States Social Security Administration paid Schneider benefits of \$16,103 in 2009.
4. Schneider received a distribution from his military pension of \$27,264 in 2009.
5. Schneider's 2009 federal adjusted gross income ("FAGI") was \$64,422.
6. Schneider did not file a Missouri income tax return for 2009.
7. The Director received information from the United States Department of the Treasury, Internal Revenue Service ("IRS") sufficient to calculate Schneider's Missouri income tax liability for 2009.
8. On December 14, 2011, the Director sent Schneider a Request for Tax Return, indicating the total 2009 Missouri income tax due was \$3,173.32 plus additions and interest.
9. On April 11, 2012, the Director sent Schneider a notice of deficiency in the amount of \$3,173.32, plus additions and interest.
10. Upon Schneider's timely protest of the Notice of Deficiency, the Director issued his final decision on April 3, 2013, and Schneider appealed.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions. Section 621.050.1.¹ Our review is *de novo*.² Our duty in a tax case is not to review the Director's decision, but to find the facts and to determine, by the application of existing law to those facts, the taxpayer's lawful liability. Schneider bears the burden to show his tax liability for 2009 is something other than what the Director assessed.³ Instead, he argued the Director had no basis for assessing Missouri income tax at all, so we provide the support for our conclusions accordingly.

¹Statutory references are to the 2000 Revised Statutes of Missouri, unless otherwise noted.

²*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

³Sections 621.050.2 and 143.661.

Section 143.011 provides, in relevant part: “A tax is hereby imposed for every taxable year on the Missouri taxable income of every resident.” For computation of an individual resident’s liability, § 143.111 provides:

The Missouri taxable income of a resident shall be such resident’s Missouri adjusted gross income less:

- (1) Either the Missouri standard deduction or the Missouri itemized deduction;
- (2) The Missouri deduction for personal exemptions;
- (3) The Missouri deduction for dependency exemptions;
- (4) The deduction for federal income taxes provided in section 143.171; and
- (5) The deduction for a self-employed individual’s health insurance costs provided in section 143.113.

Section 143.121 provides that the Missouri adjusted gross income of a resident shall be his FAGI, subject to certain modifications that are not applicable in this case. Section 143.481(1) provides:

An income tax return...shall be made by the following:

- (1) Every resident individual who has a Missouri adjusted gross income of one thousand two hundred dollars or more and who is required to file a federal income tax return[.]

Missouri may tax the income of a resident regardless of the source from which the income is earned.⁴ Schneider had income of more than \$1,200 during 2009. Because he was a resident of Missouri in 2009, he is subject to Missouri income tax and was required to file a return.

⁴ *Oklahoma Tax Comm’n v. Chickasaw Nation*, 515 U.S. 450, 462-63, 115 S. Ct. 2214, 2222 (1995); *Lloyd v. Director of Revenue*, 851 S.W.2d 519, 522 (Mo. banc 1993).

For purposes of our determination of Schneider's liability, the uncontroverted evidence indicates Schneider's 2009 FAGI was \$64,422 as reported by the IRS. From that figure, we allow the Missouri standard deduction of \$5,700⁵ and the deduction for personal exemption of \$2,100.⁶ Based on the foregoing, we conclude that Schneider's 2009 Missouri taxable income is $\$64,422 - \$5,700 - \$2,100 = \$56,622$. Section 143.011 prescribes the rate of Missouri income tax on taxable income over \$9,000 to be \$315 plus 6% of the excess over \$9,000 (in this case, $\$56,622 - \$9,000 = \$47,622 \times .06 = \$2,857.32 + \$315 = \$3,172.32$). Schneider is liable for Missouri income tax of \$3,172.32 for 2009.

Additions

Additions to tax are imposed by statute as a consequence for failure to file a return "on or before the fifteenth day of the fourth month following the close" of the tax year.⁷

Section 143.741 provides:

1. In case of failure to file any return required under sections 143.011 to 143.996 on the date prescribed therefor..., unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is not for more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate....

- 2.

Section 143.751 provides:

1. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud) there shall be added to the tax an amount equal to five percent of the deficiency. The director shall apprise the taxpayer of the factual basis for the finding of negligence, or the specific rules or regulations disregarded, at the time the director issues a proposed assessment. . . .

⁵ Sections 143.111(1) and 143.131.

⁶ Section 143.111(2) and 143.151.

⁷Section 143.511.

Negligence is “the failure to make a reasonable attempt to comply with the state tax laws.”⁸ Schneider presented us with no evidence that he made an attempt to comply with Missouri tax law, and we infer from his arguments that his noncompliance was both willful and intentional. An addition to tax is justified here. We impose an addition of 25%, or \$793.08.

Interest

Section 143.731 imposes interest on an underpayment of income tax, from the date the payment was due, in the rate determined by §32.065. Therefore, Schneider is liable for such interest on the income tax owed.

Summary

Schneider is liable for \$3,172.32 in Missouri income tax, \$793.08 in additions, plus interest at the statutory rate for tax year 2009.

SO ORDERED on April 24, 2014.

/s/ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁸ *Hiatt v. Director of Revenue*, 899 S.W.2d 870, 872 (Mo. banc 1995).